

Tab 6

Thomas Liptack

August 17, 2005

Pittsburgh, PA

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL

MDL DOCKET NO.

INDUSTRY AVERAGE WHOLESALE

CIVIL ACTION

PRICE LITIGATION

01CV12257-PBS

DEPOSITION OF: THOMAS LIPTACK

August 17, 2005

Wednesday, 10:21 a.m.

435 Sixth Avenue

Pittsburgh, Pennsylvania

REPORTED BY: Rebecca L. Schnur, RDR

HENDERSON LEGAL SERVICES
(202) 220 - 4158

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<p style="text-align: right;">34</p> <p>1 discussions about it?</p> <p>2 A. At those training sessions, no.</p> <p>3 Q. While you worked at BMS as a sales rep did you</p> <p>4 have an understanding as to how BMS drugs were</p> <p>5 reimbursed through Medicare?</p> <p>6 A. I had a general understanding.</p> <p>7 Q. What was your general understanding of that</p> <p>8 subject during your -- not now but during your</p> <p>9 period then?</p> <p>10 A. General understanding is that, actually, any</p> <p>11 oncology drugs -- Let's just take Bristol</p> <p>12 oncology drugs for the purpose of this</p> <p>13 discussion. There's an acquisition price.</p> <p>14 There's another price called AWP, or average</p> <p>15 wholesale price, that, generally, depending on</p> <p>16 the insurer, whether it be a government or a</p> <p>17 private payer, would have different formulas</p> <p>18 based off of that number in terms of how</p> <p>19 hematologists and oncologists were reimbursed.</p> <p>20 Q. Just to separate them out a little bit and</p> <p>21 putting aside the private contracts for now, do</p> <p>22 you understand what that formula was for</p>	<p style="text-align: right;">36</p> <p>1 of AWP; and I think by the time I had left</p> <p>2 Bristol-Myers Squibb that had evolved into 80</p> <p>3 percent of 95 percent of AWP.</p> <p>4 Q. How did you learn of that? How were you made</p> <p>5 aware originally of the first formula that you</p> <p>6 explained, the 80 percent of AWP?</p> <p>7 A. Originally, from the office managers I called</p> <p>8 on in my territory.</p> <p>9 Q. Was there some other source for that</p> <p>10 information other than the office managers?</p> <p>11 A. No. That was the primary source of that</p> <p>12 information that I can recall.</p> <p>13 Q. Can you recall being provided that information</p> <p>14 by BMS or anyone at BMS?</p> <p>15 A. I remember receiving that information, but</p> <p>16 that's not the first time I saw it; so, to me,</p> <p>17 it was old news since my office managers had</p> <p>18 informed me.</p> <p>19 Q. Was it during your tenure at BMS or prior to</p> <p>20 your time at BMS that you learned that formula</p> <p>21 through office managers?</p> <p>22 A. Prior to me coming to BMS.</p>
<p style="text-align: right;">35</p> <p>1 reimbursement based off of AWP for Medicare?</p> <p>2 A. That formula changed over time. Actually,</p> <p>3 probably during my tenure at BMS.</p> <p>4 Q. Can you remember what had changed --</p> <p>5 A. The two --</p> <p>6 MS. FEINGOLD: Let him finish the</p> <p>7 question.</p> <p>8 A. Pardon me?</p> <p>9 Q. Can you recall what the change was, the</p> <p>10 transition; it went from what to what, if you</p> <p>11 can recall?</p> <p>12 A. Specifically what insurance program are you</p> <p>13 discussing?</p> <p>14 Q. I'm still just talking about Medicare right</p> <p>15 now.</p> <p>16 A. Medicare?</p> <p>17 Q. Right.</p> <p>18 A. My understanding was -- and keep in mind I'm a</p> <p>19 sales representative; I'm not an office</p> <p>20 manager. I didn't deal with EOBs.</p> <p>21 But my understanding was, I believe,</p> <p>22 when I started, that Medicare paid 80 percent</p>	<p style="text-align: right;">37</p> <p>1 Q. Were you ever provided that information by</p> <p>2 anyone at BMS while you were an employee?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember in what context that</p> <p>5 information was given to you? Was that during</p> <p>6 any of the trainings?</p> <p>7 A. You know, I don't specifically remember what</p> <p>8 trainings, but I do know -- whether it would be</p> <p>9 meetings or training meetings, where</p> <p>10 periodically we would get an update on</p> <p>11 reimbursement, it generally might last for a</p> <p>12 half hour, and it would talk -- it would be a</p> <p>13 refresher on updates of reimbursement at that</p> <p>14 particular time.</p> <p>15 Q. Was it through one of these updates that you</p> <p>16 learned of this, the transition in formula for</p> <p>17 Medicare reimbursement that you described from</p> <p>18 80 percent of AWP to 80 percent of 95 percent</p> <p>19 of AWP?</p> <p>20 A. No. I knew that from working in the field.</p> <p>21 That was told to me. It was coming from my</p> <p>22 office managers.</p>

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<p style="text-align: right;">54</p> <p>1 nurse -- The nurse obviously was a stop every</p> <p>2 time. Every time you couldn't get face to face</p> <p>3 with the physician. And, on rare occasions, an</p> <p>4 office manager. Generally, that would occur --</p> <p>5 They would approach me, if that occurred. I</p> <p>6 wouldn't approach them.</p> <p>7 Q. By "them" you mean office managers?</p> <p>8 A. Yes.</p> <p>9 Q. So would you say that your most frequent -- Did</p> <p>10 you say that your most frequent contact was</p> <p>11 with the nurses in the office?</p> <p>12 A. Yeah. Probably of the group of people in the</p> <p>13 office, the most frequent was probably the</p> <p>14 nurses -- Not probably. Is.</p> <p>15 Q. Then, in frequency, the next most frequent</p> <p>16 would have been the doctors themselves?</p> <p>17 A. Yes, the physicians themselves.</p> <p>18 Q. And then, finally, on the bottom of that list</p> <p>19 would be the office manager?</p> <p>20 A. Yeah. And there would be a significant</p> <p>21 drop-off in terms of face-to-face frequency</p> <p>22 among -- between the two, grouping the nurses</p>	<p style="text-align: right;">56</p> <p>1 A. Nurses specifically wanted patient-oriented</p> <p>2 information. I think their main concern was</p> <p>3 toxicities that could occur and management of</p> <p>4 those toxicities. I would say that was their</p> <p>5 primary questions they had.</p> <p>6 Q. As with the doctors, was there -- You said that</p> <p>7 was their primary concern?</p> <p>8 A. Yes.</p> <p>9 Q. Were there some secondary concerns?</p> <p>10 A. Secondary concern was, does the drug work.</p> <p>11 But, with nurses, toxicity and toxicity</p> <p>12 management seemed to be at a higher level than</p> <p>13 efficacy.</p> <p>14 Q. How about office managers, what were they</p> <p>15 interested in talking to you about?</p> <p>16 A. Office managers generally were interested in</p> <p>17 two things: where can I procure the drug and</p> <p>18 whether or not the product was being</p> <p>19 reimbursed.</p> <p>20 Q. Just take those two things separately, where</p> <p>21 they could procure the drug.</p> <p>22 Do you mean what the sources of</p>
<p style="text-align: right;">55</p> <p>1 and the physicians together, and office</p> <p>2 manager.</p> <p>3 Q. Taking them separately, what sort of</p> <p>4 information -- when you went to call on the</p> <p>5 doctors, what sort of information were they</p> <p>6 interested in receiving from you about BMS</p> <p>7 products?</p> <p>8 A. 90, 95 percent plus they wanted to know about</p> <p>9 the clinical information associated with our</p> <p>10 products, how they worked, what the data said,</p> <p>11 toxicities, toxicity management.</p> <p>12 Q. What was the other 5 percent of their interest?</p> <p>13 A. The other 5 percent of their interest would be</p> <p>14 -- Reimbursement would be in there; what's</p> <p>15 going on for the future of the present</p> <p>16 products; are there other areas that the</p> <p>17 company is interested in looking at; are there</p> <p>18 other new products -- totally new products</p> <p>19 coming from Bristol-Myers Squibb, talk about</p> <p>20 the company in general, where it was headed.</p> <p>21 Q. What about the nurses? What sort of</p> <p>22 information were they interested in?</p>	<p style="text-align: right;">57</p> <p>1 distribution were that they could receive --</p> <p>2 A. Yeah.</p> <p>3 Q. When they asked you those types of questions</p> <p>4 what sort of information did you provide them?</p> <p>5 A. Well, there were a number of specialty oncology</p> <p>6 wholesalers out there. Of course, they can</p> <p>7 choose wherever they wanted to purchase it</p> <p>8 from.</p> <p>9 Q. Did you provide them with the names of</p> <p>10 specialty oncology wholesalers?</p> <p>11 A. At times, yeah.</p> <p>12 Q. Was one of those names OTN?</p> <p>13 A. Yes.</p> <p>14 Q. Was your goal to steer office managers or your</p> <p>15 accounts generally to purchase through OTN?</p> <p>16 A. It was not my goal.</p> <p>17 Q. Was that a goal that BMS had espoused?</p> <p>18 A. That was never a goal that was stated to us</p> <p>19 specifically as oncology sales reps that</p> <p>20 Bristol-Myers Squibb espoused.</p> <p>21 Q. Was there an understanding that you should try</p> <p>22 to get accounts to buy from OTN?</p>

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<p style="text-align: right;">62</p> <p>1 prices available for BMS drugs from OTN?</p> <p>2 A. I didn't have a good understanding of that</p> <p>3 personally, no.</p> <p>4 Q. How about from distributors other than OTN?</p> <p>5 A. No.</p> <p>6 Q. Was the price that OTN was selling BMS drugs</p> <p>7 for -- was that information that was available</p> <p>8 to you if you wanted to seek it out?</p> <p>9 A. If I picked up the phone and called OTN,</p> <p>10 although, quite frankly, I don't recall doing</p> <p>11 that. If I did, I could probably count less</p> <p>12 than the number of fingers on one hand.</p> <p>13 It wasn't easy to get access to that.</p> <p>14 A customer would have access to that. If they</p> <p>15 called, they would get pricing because, you</p> <p>16 know, like I said, I have no clue how OTN did</p> <p>17 business specifically.</p> <p>18 Q. <u>Going back to conversation about what office</u></p> <p>19 <u>managers were interested in speaking to you</u></p> <p>20 <u>about as a BMS sales rep, we've talked about</u></p> <p>21 <u>one of the two items that you mentioned, which</u></p> <p>22 <u>was where they could procure the drug. The</u></p>	<p style="text-align: right;">64</p> <p>1 those kinds of questions further, so I would</p> <p>2 direct them on to those third-party resources.</p> <p>3 Q. Can you tell me what those -- You mentioned</p> <p>4 third-party reimbursement consultants before.</p> <p>5 Can you tell me who or what they were?</p> <p>6 A. The one name I remember was ProCert.</p> <p>7 Q. Was ProCert a company, a program of</p> <p>8 Bristol-Myers Squibb?</p> <p>9 A. I believe it was a program, a BMS program.</p> <p>10 Q. So when you refer to them as a third-party</p> <p>11 consultant, did you mean to indicate that they</p> <p>12 were independent of BMS, or were they --</p> <p>13 A. They were an independent company that BMS had</p> <p>14 hired to provide that service. That's my</p> <p>15 understanding.</p> <p>16 Q. Other than ProCert, was there any other</p> <p>17 third-party consultant or program that dealt</p> <p>18 with -- or that you would refer people to?</p> <p>19 A. I don't know if it was actually under ProCert</p> <p>20 that they had a patient assistance program.</p> <p>21 ----</p> <p>22 (There was a discussion off the record.)</p>
<p style="text-align: right;">63</p> <p>1 <u>other thing you mentioned was whether it was</u></p> <p>2 <u>reimbursed, I think is what you said.</u></p> <p>3 <u>Can you explain or expound a little</u></p> <p>4 <u>bit about what their concern was with</u></p> <p>5 <u>reimbursement.</u></p> <p>6 A. <u>Office managers that would approach me about</u></p> <p>7 <u>reimbursement of our products wanted to know</u></p> <p>8 <u>and were concerned whether or not there was or</u></p> <p>9 <u>there wasn't reimbursement for the use of our</u></p> <p>10 <u>products in an individual area. So it was an</u></p> <p>11 <u>absolute zero -- it was either yes or no,</u></p> <p>12 <u>pass/fail.</u></p> <p>13 Q. How would you have that information? Through</p> <p>14 what source?</p> <p>15 A. You know, a lot of times I personally didn't</p> <p>16 know that information. I would refer them, in</p> <p>17 many cases, to our third-party reimbursement</p> <p>18 consultant. Many of the office managers had</p> <p>19 specific questions that I didn't have the</p> <p>20 ability to answer and needed further research.</p> <p>21 That, frankly, wasn't my job. And we had</p> <p>22 resources that could help our accounts research</p>	<p style="text-align: right;">65</p> <p>1 ----</p> <p>2 A. Part of that reimbursement program was</p> <p>3 reimbursement assistance. Then there was</p> <p>4 another part. And I don't know specifically</p> <p>5 how they meshed. I don't remember. But it</p> <p>6 would be a program for patients who had no</p> <p>7 insurance, an indigent program for want of a</p> <p>8 better term. I don't recall the specific name</p> <p>9 of that program or whether that program was</p> <p>10 actually under the ProCert umbrella, but</p> <p>11 that was the services that were available.</p> <p>12 Q. <u>Can you recall an instance where an office</u></p> <p>13 <u>manager -- you discussed the issue of the</u></p> <p>14 <u>margin available on BMS drugs with an office</u></p> <p>15 <u>manager?</u></p> <p>16 A. <u>I don't recall an instance of that.</u></p> <p>17 Q. <u>When you went through --</u></p> <p>18 A. <u>Now, when you said that -- Let's clarify that.</u></p> <p>19 Q. <u>Sure.</u></p> <p>20 A. <u>Are you saying that I brought it up proactively</u></p> <p>21 <u>or it was brought up to me by them?</u></p> <p>22 Q. <u>Either one. I'm just asking whether a</u></p>

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<p style="text-align: right;">66</p> <p>1 conversation about that subject took place 2 regardless of who initiated it. 3 A. I never initiated a conversation on margin. 4 There were an extremely limited number of 5 occasions where the office manager may have 6 brought it up to me. 7 Q. I know you said extremely limited. Can you 8 flesh that out? How often did that happen? 9 A. I can tell you this. I don't want to use the 10 word never, but that rarely, if ever, occurred 11 prior to Taxol becoming multisource. The few 12 times it did come up was after Taxol became a 13 multisource drug, and it was from the 14 customer's perspective that it would come up. 15 Q. Refresh my memory. When did Taxol become a 16 multisource drug? 17 A. I don't remember the specific date. I want to 18 say, if I was there five and a half years, 19 roughly sometime between three and four years 20 into my tenure. Roughly speaking. 21 Q. So it was a multisource drug for the -- 22 A. -- last, let's say, 30 to 40 percent of my</p>	<p style="text-align: right;">68</p> <p>1 just branded Taxol, Bristol-Myers' brand. 2 Q. Do you know if that was actually the case, that 3 the margin increased after -- on Taxol or other 4 paclitaxel products after Taxol became a 5 generic? 6 A. I don't exactly know because I never saw an 7 explanation of benefits. 8 Q. Was it your understanding that the accounts 9 that you called on relied on the margin 10 available on BMS drugs as part of their -- part 11 of the income that supported their operation? 12 MS. FEINGOLD: Objection to form. 13 Q. You can still answer the question. 14 A. Pardon me? 15 Q. You can still answer that question. 16 THE WITNESS: Do I have to answer it? 17 MS. FEINGOLD: Yes. 18 A. Could you please repeat the question. 19 Q. Sure. 20 MS. FEINGOLD: Why don't you read 21 back the question. 22 ----</p>
<p style="text-align: right;">67</p> <p>1 tenure there, roughly. 2 Q. Why was the margin available on BMS drugs a 3 concern for at least some of the customers that 4 you called on with respect to Taxol after it 5 became a multisource drug? 6 A. It wasn't brought up to me as a concern with my 7 specific drug, any one, either Paraplatin or 8 Taxol. It was brought up to me in the context 9 that, now that this market is multisource, that 10 they felt that the margin would improve on 11 those products, multisource products, and, in 12 this particular case, Taxol. 13 Q. Just to clarify that, they thought that the 14 product that BMS was selling as Taxol, the 15 margin on that would be better or -- 16 A. Well -- 17 Q. Let me just finish the question. 18 (Continuing) -- or they felt that the 19 margin on the generics available would be 20 better? 21 A. The margin on all the available paclitaxel 22 agents, including Taxol, would be better; not</p>	<p style="text-align: right;">69</p> <p>1 (The record was read back by the Reporter.) 2 ---- 3 A. I never was privy to any of the finances of the 4 practices I called on, so I wouldn't know that. 5 Q. I understand that you wouldn't have seen the 6 books of the practice. 7 A. No. 8 Q. That's a given. 9 But you indicated that at least in 10 some instances office managers brought up the 11 thought with you that the margin on Taxol and 12 Taxol-related products would increase after the 13 generic. That was obviously something that was 14 on their mind, at least to some degree. 15 A. Right. 16 Q. Why was that -- Why do you think that was a 17 concern of some office managers? 18 A. They were -- 19 MS. FEINGOLD: I'm going to object to 20 the form. 21 You can answer the question. 22 A. They were probably looking to cover the costs</p>

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<p style="text-align: right;">74</p> <p>1 client more heavily than his partners; 2 therefore, he gets that credit? 3 A. During my tenure at BMS we had a team 4 incentive, so everybody got the same on the 5 same formula within that geography. That was 6 my understanding. 7 Q. Other than the base pay and incentive payment, 8 were there other incentive programs for sales 9 reps at BMS? 10 A. Yes. 11 Q. Can you tell me what you remember about those? 12 A. Well, I'm trying to remember. What did they 13 call it? There was -- Basically, there was an 14 awards trip if you fell within certain criteria 15 of ranking in your region. I'm trying to 16 remember the name. 17 Q. Was it called the Best Performer's trip? 18 A. Yes, it's called Best Performer's trip. That 19 was an added incentive program. 20 Q. Did you ever go on a Best Performer's trip? 21 A. No, I didn't. 22 Q. Other than that trip -- Was that a yearly trip?</p>	<p style="text-align: right;">76</p> <p>1 whether or not the group as a whole reached a 2 certain -- 3 A. Correct. 4 Q. You weren't competing amongst one another? 5 A. No. 6 Q. As a sales rep who was at least partially 7 reimbursed based on the number of -- the amount 8 of BMS drugs that were sold in your territory, 9 was it important to you that the margin on BMS 10 drugs be equivalent -- at least equivalent if 11 not better than the margin on competing 12 drugs, drugs that competed with BMS drugs? 13 A. No. It was not important to me. 14 Q. Did you have any information about the price 15 that was available to your customers for the 16 drugs that competed with the ones you were 17 selling? 18 A. No. Competed with, for example, Taxol and 19 Paraplatin, no. 20 Q. Any of the drugs that you sold for BMS? 21 A. No. No, not that I can recall. 22 Q. During your time at BMS OTN was -- it was a</p>
<p style="text-align: right;">75</p> <p>1 Do you remember? 2 A. I believe so. 3 Q. Other than the yearly Best Performer's trip, 4 were there any other incentive programs that 5 you can recall? 6 A. While I was there -- That was the one I 7 remember the most. The only other one I recall 8 was when I was involved in the Links to the 9 Future project, where we teamed up with OTN. I 10 was the representative from the Cleveland 11 district, the liaison. And that was, 12 basically, a team incentive. 13 There was probably, approximately, 30 14 of us at Bristol-Myers Oncology. We worked in 15 partnership with OTN to place drug cabinets in 16 offices. And there was an incentive that if we 17 reached a certain number, we'd get -- each 18 person -- as a group, we would get X amount of 19 dollars. I believe it was a reward trip. But 20 that was a specific program for a specific 21 goal. 22 Q. As I understand it, the incentive was based on</p>	<p style="text-align: right;">77</p> <p>1 specialty distributor. Is that fair? 2 A. That's correct. 3 Q. They didn't distribute just BMS drugs? 4 A. That's correct. 5 Q. If you picked up the phone to someone at OTN, 6 would you have been able to get the prices of 7 the drugs that were competing with BMS drugs? 8 A. You know, I don't know that. I could tell you 9 I never did that. I don't know if that was 10 available. 11 Q. Did you ever see any documents distributed to 12 sales reps from BMS that compared just the 13 prices now, the prices of BMS drugs versus the 14 prices of its competing drugs? 15 A. No, I don't recall seeing that. 16 Q. Were you aware of the AWP associated with BMS 17 drugs while you were selling them? 18 A. No. I don't recall -- I don't recall being 19 aware of that on a day-to-day basis, no. 20 Q. Was the AWP of BMS drugs you were selling -- 21 was that information that was available to you 22 as far as you know?</p>

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<p>1 A. If I wanted it, yeah, that was available to me.</p> <p>2 Q. How?</p> <p>3 A. Probably the easiest thing I would have done is</p> <p>4 picked up the phone and called Tim Wert.</p> <p>5 Q. Do you ever remember doing that?</p> <p>6 A. I don't specifically recall doing that, no.</p> <p>7 Q. Can you remember during -- at any time either</p> <p>8 during the reimbursement updates that we talked</p> <p>9 about earlier or at any other presentation that</p> <p>10 you attended or meeting that you attended at</p> <p>11 BMS where the AWP of the BMS drugs was</p> <p>12 provided?</p> <p>13 A. Yeah. It would be provided at those</p> <p>14 presentations -- not every one, but if it</p> <p>15 needed to be part of the presentation, yeah, it</p> <p>16 would be provided.</p> <p>17 Q. Can you recall whether during those</p> <p>18 presentations where they provided the AWP of</p> <p>19 BMS drugs -- whether there was any information</p> <p>20 about the AWP of competing drugs?</p> <p>21 A. I don't recall that, no.</p> <p>22 Q. When you called on your accounts, did either an</p>	<p>1 Q. A document such as --</p> <p>2 A. Okay.</p> <p>3 Q. -- a document that would have compared the</p> <p>4 margin available on BMS drugs --</p> <p>5 A. Okay.</p> <p>6 Q. -- to the margin available on drugs that</p> <p>7 competed with BMS drugs</p> <p>8 A. No. I don't recall that coming out at BMS.</p> <p>9 Q. Do you recall BMS providing you with any</p> <p>10 documents during -- at any time during your</p> <p>11 five and a half years that showed a calculation</p> <p>12 of the margin available on BMS drugs?</p> <p>13 A. Yes. I do recall that.</p> <p>14 Q. Can you tell me: Were you provided with such a</p> <p>15 document on more than one occasion?</p> <p>16 A. Once. Maybe twice. I don't recall it being a</p> <p>17 constant effort, you know.</p> <p>18 Q. Can you remember the one or two times that you</p> <p>19 remember it?</p> <p>20 A. The only thing I remember about that is that</p> <p>21 that only -- that occurred after Taxol became</p> <p>22 multisource. I don't recall seeing any kind of</p>
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<p>1 office manager or doctor or nurse or anyone you</p> <p>2 were speaking to at your accounts -- did they</p> <p>3 ever provide you with an analysis of the margin</p> <p>4 available on BMS drugs as compared to the</p> <p>5 margin available on competing drugs?</p> <p>6 A. No.</p> <p>7 Q. Do you ever recall seeing a document like that?</p> <p>8 A. No. Coming from a physician's office, no.</p> <p>9 Q. How about from any of the hospitals that you</p> <p>10 were --</p> <p>11 A. No.</p> <p>12 Q. Do you ever recall being provided with such a</p> <p>13 document from anyone at BMS?</p> <p>14 A. I think at some -- Clarify that question.</p> <p>15 Q. Yes.</p> <p>16 A. Repeat that question.</p> <p>17 MR. NOTARGIACOMO: Actually, can you</p> <p>18 repeat the question.</p> <p>19 ---</p> <p>20 (The record was read back by the Reporter.)</p> <p>21 ---</p> <p>22 A. Define "such a document."</p>	<p>1 document like that prior to Taxol becoming</p> <p>2 multisource. That's my recollection.</p> <p>3 Q. So it's your recollection that whatever</p> <p>4 document that was it related to Taxol --</p> <p>5 A. Yes.</p> <p>6 Q. -- and not other drugs at BMS?</p> <p>7 A. I don't recall any other drugs. Yes, just</p> <p>8 Taxol is the one I recall.</p> <p>9 Q. And do you remember in what context the</p> <p>10 document would have been provided?</p> <p>11 A. Context meaning part of maybe a reimbursement</p> <p>12 presentation at the regional meeting --</p> <p>13 Q. Right, or national.</p> <p>14 A. -- something like that?</p> <p>15 I don't recall -- It may have</p> <p>16 occurred. You know what. I can only remember</p> <p>17 attending one national meeting during my tenure</p> <p>18 at BMS, which makes it more likely that it</p> <p>19 would have occurred at a regional or district</p> <p>20 meeting, would be when it would have occurred.</p> <p>21 Q. Do you know who was giving the presentation?</p> <p>22 A. I don't recall who was giving the presentation.</p>

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<p style="text-align: right;">126</p> <p>1 meeting generally held in January, February.</p> <p>2 Q. Was that a regional meeting?</p> <p>3 A. It could have been a district meeting. It</p> <p>4 could have been a regional meeting. We would</p> <p>5 go back and forth on whether that meeting in</p> <p>6 January was a district meeting or regional</p> <p>7 meeting or even a national meeting on a number</p> <p>8 of occasions. It wasn't consistent in terms of</p> <p>9 the size of the group that would meet.</p> <p>10 Q. Do you know who was responsible for generating</p> <p>11 the marketing plan for a particular product at</p> <p>12 BMS?</p> <p>13 A. Now?</p> <p>14 Q. No.</p> <p>15 A. I, frankly, don't remember.</p> <p>16 You mean when I was there?</p> <p>17 Q. Yes.</p> <p>18 A. There were various people that were</p> <p>19 responsible. I don't remember specifically who</p> <p>20 and when. If you threw names -- Frankly, at</p> <p>21 this point I don't know if I could even match</p> <p>22 the names with the product. The names might</p>	<p style="text-align: right;">128</p> <p>1 idea of how that process works specifically.</p> <p>2 Q. How would you get copies? How would they</p> <p>3 distribute the materials to you?</p> <p>4 A. Generally, after they presented it, they may</p> <p>5 send out an initial shipment, and then, after</p> <p>6 that, you would be able to order them on, you</p> <p>7 know, an as-needed basis.</p> <p>8 Q. And they would just ship them to you?</p> <p>9 A. If you ordered it after that, yeah.</p> <p>10 Initially, they'd give you an initial</p> <p>11 shipment. Everybody would get an initial</p> <p>12 shipment, but they wouldn't just keep shipping</p> <p>13 stuff out, you know, at time intervals. You</p> <p>14 would have to request it.</p> <p>15 Q. Did you attend national meetings?</p> <p>16 A. Yes.</p> <p>17 Q. Did you go every year to the national meeting?</p> <p>18 A. No. We didn't have a national meeting every</p> <p>19 year I was there.</p> <p>20 Q. Did you attend every national meeting that was</p> <p>21 held during the five and a half years you were</p> <p>22 there?</p>
<p style="text-align: right;">127</p> <p>1 ring a bell, but I couldn't remember whether,</p> <p>2 you know, they had Taxol or Paraplatin. That</p> <p>3 might be more difficult.</p> <p>4 Q. Were there specific people with specific titles</p> <p>5 who had responsibility for that?</p> <p>6 A. Yeah.</p> <p>7 Q. Do you know what the titles were?</p> <p>8 A. I don't know specifically what the titles were.</p> <p>9 Q. Do you know what department they were in?</p> <p>10 A. They were in the marketing department.</p> <p>11 Q. Who was responsible at BMS for creating the</p> <p>12 approved marketing materials that we talked</p> <p>13 about earlier, that you listed earlier?</p> <p>14 A. I don't know generally who at the end of the</p> <p>15 day made the final call on that. That I don't</p> <p>16 know.</p> <p>17 Q. Was it your understanding that was someone in</p> <p>18 the marketing department?</p> <p>19 A. I don't know what the process was for approval.</p> <p>20 Who it was, where it had to go through I have</p> <p>21 no clue. That would be something that internal</p> <p>22 management might know, but at my level I had no</p>	<p style="text-align: right;">129</p> <p>1 A. That was held for the oncology sales division,</p> <p>2 yes, I did.</p> <p>3 Q. How long did those meetings usually last?</p> <p>4 A. Generally, approximately five days.</p> <p>5 Q. Were they at different locations each time?</p> <p>6 A. Yes. I'm trying to think. During my tenure</p> <p>7 there I can recall -- I want to say two</p> <p>8 national meetings. That's my recollection.</p> <p>9 Q. Can you recall where they were?</p> <p>10 A. One meeting was in Orlando at the Hyatt Regency</p> <p>11 Orlando. One meeting was in South Beach,</p> <p>12 Miami, at the Loews Miami.</p> <p>13 Q. Nice hotel. I was there a few weeks ago.</p> <p>14 A. Both nice hotels, yes. Loews Miami Beach.</p> <p>15 Q. Do you know at those national meetings -- they</p> <p>16 lasted five days, were there -- I assume that</p> <p>17 there were breakout sessions during those</p> <p>18 meetings?</p> <p>19 A. Generally speaking, yes.</p> <p>20 Q. And did you have a choice of breakout sessions,</p> <p>21 or were you required -- everyone was required</p> <p>22 to rotate through the same sessions?</p>

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<p style="text-align: right;">130</p> <p>1 A. Generally, you're correct; everybody would be 2 required to rotate. 3 It wasn't like college where you 4 decide you want to sign up for this course and 5 you couldn't sign up for that course. 6 Q. Do you remember whether any of those breakout 7 sessions dealt with the subject of 8 reimbursement for BMS drugs? 9 A. I don't recall specifically, but I know there 10 would be generally a session on reimbursement, 11 in general, at those meetings. And it didn't 12 necessarily have to be in a breakout session 13 per se. It could have been in the general 14 session. Generally, it would be one 15 presentation, probably no more than a half 16 hour, 45 minutes, and it would be a general 17 overview. In most cases the review would 18 consist of general oncology reimbursement, not 19 necessarily specific to Bristol-Myers Squibb 20 products, is my recollection. 21 Q. Do you know whether the national meetings were 22 organized entirely by BMS personnel, or was</p>	<p style="text-align: right;">132</p> <p>1 either way? 2 A. To my recollection, there was no policy either 3 way. 4 Q. Did BMS have a system for disciplining sales 5 representatives? 6 A. I wouldn't know. I never was disciplined. 7 Q. Were you ever made aware of a general policy or 8 system for that? 9 A. I never had to cross that bridge. I wouldn't 10 know anything about policy. I couldn't give 11 you any specifics on that. 12 Q. You were never provided any like handbook or 13 anything like that? 14 A. I don't recall, no. 15 Q. Do you ever recall anybody -- obviously, not 16 yourself -- but any other sales reps being 17 disciplined for anything? 18 A. You know, I wouldn't know. They didn't 19 announce that. That was a private matter. I 20 specifically can't comment on anything, you 21 know, disciplinary action against any one of my 22 colleagues. I had no clue.</p>
<p style="text-align: right;">131</p> <p>1 there some -- did they contract out some 2 portion of it to, you know, third-party 3 planners or anything? 4 A. I'm not aware how that was handled, to what 5 extent. I wasn't involved in those decisions 6 or implementation. 7 Q. Are you in possession of any of the information 8 that may have been disseminated, written or -- 9 you know, physical information that was 10 disseminated during any of those national 11 meetings? 12 A. Not at this point. 13 That was all disposed of when I left 14 Bristol-Myers Squibb. 15 Q. Did BMS have any specific policies related to 16 whether you should or shouldn't discuss the 17 margin available on BMS drugs with your 18 customers? 19 A. I was unaware of any policy that 20 Bristol-Myers Squibb had on discussing margin 21 associated with reimbursement of our products. 22 Q. So to your recollection, there was no policy</p>	<p style="text-align: right;">133</p> <p>1 Q. So you don't recall -- I understand that BMS 2 wouldn't necessarily share that information 3 with everybody. Was there any discussion 4 amongst either your partners or other sales 5 reps about anybody being disciplined for 6 anything? 7 A. I don't recall having those discussions with my 8 colleagues at the Cleveland district. 9 Q. How about colleagues in any other district? 10 A. I really didn't see many colleagues that often. 11 Like I said, we had a regional meeting maybe 12 two times a year, a national meeting twice in 13 my five and a half years. 14 I wasn't the kind of person that got 15 on the evening phone tree. I have a life. I 16 have two kids. I'm a professional at what I 17 do. And, frankly, I don't like to get involved 18 in all the stuff that might go on in the 19 periphery. I have a job to do; I do it every 20 day; and I do it well. 21 Q. What sort of information did BMS provide you 22 about your competitor's drugs?</p>

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